

*IMO D. David Shu, Supervising Program
Development Specialist, DEP (PS4945G),
Department of Environmental Protection
DOP Docket No. 2003-3037
(Merit System Board, decided January 7, 2004)*

D. David Shu appeals the determination of the Division of Selection Services which denied his request for a postponement of his make-up examination for the promotional examination for Supervising Program Development Specialist, DEP (PS4945G), Department of Environmental Protection.

The subject promotional examination was administered via the Supervisory Test Battery on October 30, 2002. The record indicates that appellant requested a make-up examination and was given a make-up date of December 3, 2002, but did not show for the examination. A representative of the Division of Selection Services telephoned appellant on January 6, 2003 regarding day and night make-up testing on January 16, 2003, and was scheduled for that date. However, the record also indicates that, on January 12, 2003, appellant submitted a letter to the Division of Selection Services, requesting that he be allowed to take the make-up test in March after he returns to work from his leave of absence. The Division of Selection Services sent a letter to appellant on February 3, 2003, determining that appellant's reason for a make-up examination did not meet the criteria listed in *N.J.A.C. 4A:4-2.9* and denying his request. The record indicates that six eligibles passed the examination and their names appeared on the resultant promotional list. Department of Personnel records indicate that one permanent appointment was made effective December 10, 2002, and five eligibles remain on the list.

On appeal, Mr. Shu states that his wife has been seriously ill since August 31, 2002, and was hospitalized from August 31 to October 15, 2002 and again from November 1 to November 5, 2002. He explains that he is the only caregiver for his wife since all of her family members reside overseas in Taiwan. He also states that, due to his wife's unexpected illness, he is the sole caregiver for his 90-year-old father who has been confined to a wheelchair since October 1998, and their 12-year-old daughter. In addition, he is the only driver in their household. He argues that all of these circumstances have significantly affected his daily schedule. Therefore, he requests that he be granted a make-up examination when his wife is able to take care of herself for her basic needs. Mr. Shu submits letters from his primary physician and his wife's primary physician to substantiate his current situation. He also submits a list of his wife's past and pending medical appointments.

The appointing authority confirms that appellant has recently returned to work on November 19, 2003. The record reveals that appellant was on an extended

leave of absence due to his wife's catastrophic illness and, in fact, was a recipient of donated leave.

N.J.A.C. 4A:4-2.9 provides that make-up examinations may be authorized for valid reasons.

CONCLUSION

A review of Mr. Shu's appeal submissions reveals that appellant was the sole caregiver for his family and was unable to attend a make-up examination in January 2003. The record further reveals that appellant has now returned to work from his leave of absence. Under these circumstances, based on the specific facts of this case, good cause exists to admit appellant to a make-up examination for prospective appointment opportunities only.

ORDER

Therefore, it is ordered that this appeal be granted, and appellant be scheduled for a make-up test.